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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/823,926

04/14/2004

Herbert Huttlin

03928-P0007A

5298

24126

7590

05/25/2007

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EXAMINER

EDWARDS, LAURA ESTELLE

ART UNIT

PAPER NUMBER

1734

MAIL DATE

DELIVERY MODE

05/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/823,926	HUTTLIN, HERBERT	
	<b>Examiner</b>	<b>Art Unit</b>	
	Laura Edwards	1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2006 and 07 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 7-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Translation</u>                        |

***Claim Rejections - 35 USC § 112***

Claims 7-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, lines 2-13, Applicants recite the structure defining the claimed invention, however, it is unclear how the particulate material is introduced or fed into the apparatus to be treated as desired regardless of how the material is finally removed therefrom. The apparatus as claimed has no language functional or otherwise to indicate how the particulate material is received. Where's the inlet or opening for receiving the particulate material?

In claim 7, Applicants recite in the preamble, an apparatus for treating particulate material, however, it is unclear as to the treatment resulting from the apparatus on the particulate material because there is no treating means or structure in the body of the claim. Therefore, the preamble of the claim is not indicative or corresponding with the body of the claim. Where's the spraying device that treats or sprays the particulate material?

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 7-20, 23-25, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Huettlin (WO00/10699) for reasons set forth in the previous office action.

***Claim Rejections - 35 USC § 103***

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huettlin (WO00/10699) in view of Huettlin (DE 10104184) for reasons set forth in the previous office action.

### ***Response to Arguments***

Applicant's arguments filed 7/13/06 and 12/7/06 have been fully considered but they are not persuasive.

Applicant contends that all 112 second paragraph issues should be withdrawn as the life and breath of the claims are clear and/or alternatively presumed to be within the level of ordinary skill in the art such that Applicant need not amend claim 7 to provide for how the material is fed (i.e., the apparatus having an inlet or opening for receiving the particulate material) nor provide for means to effect the treatment of the particulate material as stipulated by the preamble.

Applicant's arguments with respect to the 112 second paragraph issues are all well taken. However, the claim language is unclear in that the apparatus as claimed now has no language explicit or implicit as to how the particulate material gets into the container. Is the container closed such that the particulate material is fed through the air feed device? Is the particulate material received in an upper portion of the container? There is no language to stipulate to one skilled in the art how the particulate material is inputted nor is there language to stipulate the treatment effected on the particulate material. Clarification is necessary.

Applicant contends that WO '699 does not read on the claimed subject matter because each and every structure recited in claim 7 is not provided in WO '699. The cited art '699 does not anticipate the claimed invention because the supplying means 66 introduces process air into container 24 through the bottom 26 of the container 24 and NOT through at least a first air gap in a transition region from said wall to said deflection element. As can be seen by the arrows 70 in Fig. 1 of WO '699, process air is introduced through the bottom 26 of container 24 and then generally in an upward direction.

This argument is not deemed persuasive because the base of WO '699 can be construed to include merely the extension of the rotary shaft (32) excluding the wall portion (40) as shown in Fig. 1 such that a first air gap would exist not only in the area about element 12 but from the area of the wall portion (40) up to the area about element 12 to define a transition region, the transition region being any region or area of the wall from the bottom to the top which ends with the deflection means (42, 86) as evidenced by WO '699.

Applicant contends that because WO '699 does not provide for the first air gap in the wall portion with respect to the transition region, the apparatus also does not provide for the air feed device which feeds an air stream through the at least one first air gap into the container.

This argument is not deemed persuasive in light of the response previously mentioned but in addition, because the air feed device can be construed as the member (66) which feeds air not only to the interior of the container via wall portion (40) but also from the outside of the container to the inside of the container via the exterior wall (28) of the container as illustrated in Fig. 1, on the left hand side. WO '699 remains to anticipate the instantly claimed invention for reasons thereof.

Applicant contends that there is no deflection element in WO '699 adjoining the wall in an upper region of the container. However, it is the Examiner's position that the deflection element in WO '699 is defined by the combination of members (42) and (86) which are next to or adjoin the wall (28).

Applicant argues that there is no motivation for the combination of teachings of WO '699 with that to DE '184. This argument is not deemed persuasive because the proper motivation for the combination has been supplied as required by *Graham v. Deere*. The motivation for the combination need not be explicit. It would have been common sense to one skilled in the art of treating particulate material to incorporate the adjustable base plates used with the piston cylinder members as taught by DE '184 in the container of WO '699 for the benefit of fluid flow control. The adjustment in the width or gap size openings between adjacent base plates would control the flow of the air being entrained with the particulate material.

#### ***Allowable Subject Matter***

Claims 26-28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 26 would be allowable because there is no teaching or suggestion in the prior art of a particulate material apparatus having the combination of a container having an opening for receiving particulate material, the container having a base, an upright wall widening from bottom to top, and a deflection element adjoining said wall in an upper region of said container in order to deflect a direction of movement of said material; said wall being rotatable about a vertical axis

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of rotation; at least a first air gap in a transition region from said wall to said deflection element; an air feed device for feeding an air stream through said at least one first air gap into said container, at least one of said first air gap and said air feed device being configured such that said air stream introduced through said first air gap has a flow component oriented substantially from bottom to top and, in a region adjoining said air gap, oriented substantially tangentially with respect to the course of at least one of said wall and said deflection element wherein the container has a return surface that tapers from the top to the bottom, on which the material deflected by the deflection element is moved back downward to the base, the return surface is supported on said wall via a sliding ring bearing in such a way that said return surface does not corotate with said wall or rotates with a rotational speed lower than the rotational speed of said wall.

Claims 27 and 28 would be allowable because there is no teaching or suggestion in the prior art of a particulate material apparatus having the combination of a container having an opening for receiving particulate material, the container having a base, an upright wall widening from bottom to top, and a deflection element adjoining said wall in an upper region of said container in order to deflect a direction of movement of said material; said wall being rotatable about a vertical axis of rotation; at least a first air gap in a transition region from said wall to said deflection element; an air feed device for feeding an air stream through said at least one first air gap into said container, at least one of said first air gap and said air feed device being configured such that said air stream introduced through said first air gap has a flow component oriented substantially from bottom to top and, in a region adjoining said air gap, oriented substantially

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tangentially with respect to the course of at least one of said wall and said deflection element wherein the container has a return surface which is constructed from a plurality of concentric ring elements, which partly overlap one another and between which a plurality of air gaps form.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Edwards whose telephone number is (571) 272-1227. The examiner can normally be reached on Monday-Friday.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Laura Edwards  
Primary Examiner  
Art Unit 1734

Le  
May 22, 2007

10/023926

PTO 06-3954

German Patent No. DE 101 04 184 A1  
(Offenlegungsschrift)

METHOD FOR TREATING A PARTICULATE PRODUCT WITH A COATING MEDIUM,  
AS WELL AS DEVICE FOR CARRYING OUT SUCH A METHOD

Dr. Herbert Hüttlin

UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. APRIL 2006  
TRANSLATED BY THE MCELROY TRANSLATION COMPANY